

CALIFORNIA BAY-DELTA AUTHORITY PUBLIC RECORDS ACCESS GUIDELINES

Access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state, as set forth in the California Constitution (Art. I, Sec. 3) and the California Public Records Act, Government Code Section 6250 et seq.

Further to Executive Order S-03-06 (3/29/06), the CBDA has established the following guidelines to ensure that members of the public fully understand and are afforded the opportunity to use their right to inspect and obtain copies of public records. A copy of these guidelines will be posted in the lobby of CBDA's headquarters in Sacramento and a copy of these guidelines will be provided free of charge upon request.

WHAT ARE 'PUBLIC RECORDS'? "Public records" include any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by the CBDA regardless of physical form or characteristics.

'Writing' means handwriting, typewriting, printing, Photostatting, photography, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols or any combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

'Member of the public' means any person, except a member, agency, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.

WHEN MAY PUBLIC RECORDS BE INSPECTED? Public records are open to inspection during CBDA office hours, 8:30 a.m. until 4:30 p.m., Monday through Friday, excluding state holidays. However, the inspection of public records is subject to a rule of reason as to time and duration and must be consistent with the efficient functioning of our offices. Although not required, for administrative efficiency the CBDA encourages any person who wishes to inspect public records to telephone our Public Records Coordinator at (916) 445-5511 in advance and make an appointment to inspect the records. It is the policy of the CBDA that records not exempt from disclosure by state law will be open for public inspection with the least possible delay and expense to the requesting party. Records subject to exemption may nevertheless be made available for inspection if waiving the exemption will serve the public interest, as determined by the CBDA on a case-by-case basis.

HOW MAY THE PUBLIC REQUEST COPIES OF PUBLIC RECORDS? A

request to inspect or to obtain a copy of a public record may be made orally or in writing, but the CBDA encourages written requests unless the request seeks records that are maintained by the CBDA for immediate public inspection.

Written requests should be addressed to: California Bay-Delta Authority, 650 Capitol Mall, 5th Floor, Sacramento, CA 95814, Attention: Public Records Coordinator. The written request need not be in any particular form, but should describe the requested records with sufficient specificity to enable CBDA staff to identify and locate the information sought. The request should include a telephone number where the person requesting the record can be reached to discuss the request.

Within 10 days from the date the request is received, the CBDA will determine whether the request, in whole or in part, seeks copies of disclosable public records in CBDA's possession and notify the requestor of that determination. In unusual circumstances (when CBDA needs to communicate with field offices, inspect voluminous records, consult with other divisions or agencies, or construct a computer report to extract data), the 10-day time limit may be extended by up to 14 days by written notice by CBDA to the requestor, setting forth the reason for the time extension (Government Code Section 6253.1). If the CBDA determines that compliance with the request is appropriate, the records will be made available as promptly as is reasonably practicable. While the CBDA will disclose identifiable and existing records, the CBDA is not required to synthesize, manufacture, or summarize records, i.e., develop new records in response to a request.

WHAT WILL CBDA'S RESPONSE TO A RECORDS REQUEST INCLUDE? In

responding to information requests, the CBDA will advise the requestor, by telephone or by mail as appropriate, of (1) the location, approximate date, and time at which the requested public records will be available; (2) if copies of records are requested, the cost of providing such copies; (3) which of the records requested are not subject to disclosure as public records pursuant to applicable provisions of the California Public Records Act. The CBDA will determine the form in which any requested computer data will be provided.

Upon request, the CBDA shall make available any public record in electronic format in any electronic format in which CBDA holds the information or in the format requested if the requested format is one that has been used by CBDA to create copies for its own use or for provision to other agencies.

IS THERE ANY FEE INVOLVED? A request for a copy of an identifiable public record or information produced therefrom must be accompanied by payment of fees to cover the direct costs of duplication, which will be based on a fee of \$.20 per standard reproduced page. Duplications of information transferred to a compact disk are \$.60 per CD. Other external services, such as copying video

and audio cassettes or meeting transcripts, will be made at the direct cost to the requester. Reasonable fees to cover other types of reproduction costs may be charged to include any other statutory fees.

WHAT RECORDS ARE NOT OPEN FOR INSPECTION? In balancing the public's right to access public records with the recognized individual right of privacy and the need for the CBDA to be able to competently perform its duties, the Legislature has established certain categories of records which may be exempt from public disclosure.

A complete list of statutory exemptions is found in the California Public Records Act. Records exempt from disclosure include, but are not limited to, the following:

- a. Preliminary drafts, notes, or inter-agency or intra-agency memoranda which are not retained by the CBDA in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure;
- b. Records pertaining to pending litigation to which the CBDA is a party, or to claims made until such litigation or claim has been finally adjudicated or otherwise settled;
- c. Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy; and
- d. Records of which the disclosure is exempt or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

The CBDA also possesses the discretion to claim an exemption from public disclosure for records which do not qualify for a specific exemption under the California Public Records Act, but as to which CBDA determines the public interest served by not making the record public clearly outweighs the public interest served by disclosure (Government Code Section 6255).

WHAT IF A MEMBER OF THE PUBLIC WISHES TO CHALLENGE THE CBDA'S DETERMINATION NOT TO DISCLOSE RECORDS? Under the California Public Records Act, Government Code Section 6258, any person may seek injunctive or declarative relief in any court of competent jurisdiction to enforce the right to inspect or to receive a copy of any public record.